

**MILWAUKIE CITY COUNCIL
REGULAR SESSION
DECEMBER 7, 1999**

The one thousand eight hundred and twenty-eighth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Rob Kappa
Mary King

Larry Lancaster
Jeff Marshall

Also present:

Dan Bartlett,
City Manager

Martha Bennett,
Assistant City Manager

Tim Ramis,
City Attorney

Paul Roeger,
Civil Engineer

Charlene Richards,
Assistant City Manager

CONSENT AGENDA

It was moved by Councilor King and seconded by Councilor Marshall to approve the Consent Agenda that consisted of:

1. City Council Minutes of November 15 & 16, 1999; and
2. 1999 - 2000 Waterline Improvements -- Phase 1 Project Acceptance

Motion passed unanimously.

AUDIENCE PARTICIPATION

Linda Hatlelid, 8617 SE 36th Avenue, discussed the Johnson Creek Blvd. Improvement Project. It has been seven months since property owners, the Traffic Safety and Transportation Board (TSTB), the Ardenwald Neighborhood District Association (NDA), and residents were promised that the 40- and 44-foot rights-of-way would be marked. She provided copies of a notice from the City of Milwaukie dated October 12, 1999, saying that the City of Portland would be marking the boundaries of the entire project from 36th Avenue to 45th Avenue. She urged the City Council to see to it that this promise was kept so residents could see the true impact of the project on their properties.

Richard Cayo, 4203 SE Johnson Creek Blvd., completed the remarks he began at the November 16, 1999, Council meeting regarding the Safeway building. From the figures he has seen, it appears that taxpayers will lose about \$500,000 on the project. He questioned turning prime, developable land into a bus stop and suggested the City seriously consider selling it to private developers. After

voters defeated light rail, a developer told him that he had offered the City \$1.1 million for the property, but the City Manager told him the property was not for sale. Cayo suggested siting the transit station on the 2.5 acres on either side of the trestle crossing McLoughlin Boulevard. This would get the buses out of the downtown area and return the streets to parking. He believed locating the transit center on the south side of town would be a good idea since someday there might be commuter rail service between Lake Oswego and Portland on that trunk line. Cayo discussed the current usage of that track.

Mart Hughes, 3006 SE Washington Street. He provided an aerial photo showing the Lewelling School area, the David Green property, and Winsor Court wetlands. Green was not able to attend this Council meeting, so he e-mailed the City Council his concerns about the potential loss of open space in that area. Hughes wished to add support to Green's comments because there are properties in the area along the steep bluff that add open space within urban development. Green's concern was the ongoing erosion of these natural and open space resources. Unfortunately, the City has not been able to start developing a plan that gets these unrecognized areas regulated so there is a natural resource review prior to development. His own concern was with the continued filling of uninventoried wetlands. He urged the City Council to take the opportunity to start a program in order to begin looking closely at these areas and adopt protective measures.

Councilor Marshall understood the property was going to be for sale.

Hughes did not know the current status of that property, but there was the possibility that other properties might be on the market in the future. There may be as many as ten properties in that area, and some appeared to be constricted lots. Hughes understood that the North Clackamas School District owns the bluff. One parcel is for sale, but no buyers have stepped forward.

Councilor King asked the status of the cell tower, and **Bartlett** cautioned that could be an ex parte issue.

Mayor Tomei asked if this was something the Park and Recreation Board (PARB) ought to consider.

Hughes said he was speaking as an individual and not a PARB member. He was concerned, though, with potentially losing some open space in the City.

Bartlett explained that Green's e-mail was forwarded to the Planning Department in the event it might become an ex parte contact.

Hughes explained his concern was with the overall process and exceeded this particular lot.

PUBLIC HEARING

Consider Vacating SE 25th Avenue between SE Beta and SE Stubb Streets

Mayor Tomei called the public hearing on the vacation of a portion of SE 25th Avenue between SE Beta and SE Stubb Streets to order at 6:12 p.m.

The purpose of the hearing was to consider public testimony on the Oregon Department of Transportation's (ODOT) petition to vacate SE 25th Avenue between SE Beta and SE Stubb Streets. **Mayor Tomei** reviewed the conduct the of the hearing.

Staff Report: **Roeger** presented the staff report in which staff recommended the City Council adopt an ordinance vacating the street and reserving utility easements. The Oregon Department of Transportation (ODOT) filed a street vacation petition with the City in October 1999. He reviewed the street vacation process. All abutting property owners and at least two-thirds of the affected property owners signed the petition. The impact of the street vacation on adjacent streets would be minimal. ODOT currently owns all of the property abutting the proposed vacation area, and easements would be retained for all existing utilities. There is a hammerhead turnaround at the north end on Stubb Street that meets Fire Marshall and Public Works standards. The City will retain an easement for public transportation purposes, but SE 25th Avenue is not viewed as a future link in any current multimodal plan. The Planning Commission recommended approval at its November 23, 1999 meeting.

Councilor King asked if ODOT or some future owner could potentially construct a building there.

Roeger said technically adjoining properties are the underlying owners, and in this case, ODOT owns the property on both sides of the street.

Audience Testimony: **George Anderson**, Anderson Die & Mfg. Co., 2425 SE Moores Street. He was concerned that businesses on the north side of Stubb Street depend on having employee parking on 25th Avenue. It was for that reason he objected to the street vacation. If ODOT would agree to either grant or sell a ten-foot strip along 25th Avenue to maintain the current parking, he would be supportive of the request. If ODOT wished to exercise its right in the future, businesses would suffer a severe loss of employee parking.

Mayor Tomei asked if other businesses had expressed a similar concern.

Anderson responded that when the petition was circulated last summer, he had tried to contact Mr. Gagnier of ODOT, but the only response was that ODOT had met the City's criteria for a street vacation. He would be agreeable to the street

vacation if some of the parking issues were negotiated. He was concerned about his property and others and noted that his company was currently leasing to a business that used on-street parking.

Councilor Kappa asked if the City Council would be stepping out of bounds if it addressed the parking issue.

Ramis responded that the City Council has the latitude to apply conditions on issues of public interest. The Council would not be compelled to make a decision at this meeting and may wish to set over the decision to allow the various parties time to continue discussions.

Councilor Lancaster asked how many parking spaces would be adequate for the four businesses in that area.

Anderson said the number of employees varies because some of the current businesses are seasonal.

Mayor Tomei asked Anderson if he had spoken to the Planning Commission.

Anderson said he had not. He had written a letter to ODOT in June 1999 suggesting that the agency consider granting a ten-foot wide strip along Stubb Street from 25th Avenue to the railroad. He was concerned that Stubb Street might be developed as an entrance to a new ODOT building.

Mayor Tomei commented that she had not been aware of any controversy on the proposed street vacation.

Bartlett suggested closing the public hearing and continuing the item to January 4, 2000, and direct staff to continue meeting with Mr. Anderson and ODOT. Apparently, Anderson understood when signing the petition that there would be some kind of follow through from ODOT on his concerns.

Councilor Kappa agreed with that recommendation because it seemed as if Mr. Anderson had expected some communication from ODOT.

Anderson went on record to say that he had no objection to the street vacation as long as provisions were made for on-street parking.

Jeff Juden, ODOT, 9002 SE McLoughlin Blvd. He said company employees could continue to park on Stubb Street. He did not think ODOT would develop the property because of the slope. The only affected parties would be the truck drivers.

Councilor King felt it would be appropriate for Mr. Anderson, ODOT, and City staff to continue discussions.

Bartlett agreed that discussion needed to continue to ensure there was a clear understanding between parties.

Close Public Testimony: **Mayor Tomei** closed the public testimony portion of the hearing at 6:40 p.m.

Ramis said the range of options before the City Council included approving the application, denying the application, approving it with conditions, or continuing the item to a date certain in order to allow time for further discussions and to gather more information.

Councilor Marshall commented that the City was not responsible for making sure businesses had parking, but he did appreciate the fact that a dead end street was being created. He was concerned about trucks being able to maneuver. If these businesses did require parking, he hoped staff would look at the option of helping develop an agreement between the parties .

Councilor Lancaster suggested it would be helpful for the Council in its decision making to know the range of development possibilities in that area and the potential impact to surrounding organizations.

It was moved by Councilor Kappa and seconded by Councilor King to remand the street vacation petition back to staff to resolve City Council concerns, to direct staff to facilitate the resolution of Mr. Anderson's parking concerns with ODOT, and to continue the decision to January 4, 2000.

Councilor Lancaster said staff should also ensure that all affected parties are notified.

Motion passed unanimously.

OTHER BUSINESS

Extension of Metro Local Share Agreement until December 31, 2000

Richards presented the staff report in which the City Council was requested to adopt a resolution authorizing the Mayor to sign a contract amendment with Metro to extend the agreement to December 31, 2000. Metro has offer this option to all local jurisdictions to allow additional time for property acquisition and developing plans for wetlands and open spaces.

She reviewed the projects that are currently underway: Minthorn North Addition; Ardenwald to Springwater Access Easement, Furnberg Park Wetland, Roswell Wetland, and Willow Place Wetland. The Kellogg Lake property acquisition is complete. **Richards** clarified that this extension helps safeguard the City from losing Local Share funds and will not cost the City any additional money.

Councilor King noted that one of the issues with the Springwater entrance project has been a lack of cohesiveness among the neighbors.

Richards responded that the neighbors had differing opinions on the project.

Councilor Marshall was not opposed to the extension, but he had some comments on the properties. He suggested the City Council meet in executive session.

It was moved by Councilor King and seconded by Councilor Kappa to adopt the resolution authorizing the Mayor to sign a contract amendment with Metro to extend the agreement to December 31, 2000. Motion passed unanimously.

RESOLUTION NO. 42-1999:

A RESOLUTION AUTHORIZING AMENDMENT OF THE METRO LOCAL SHARE INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE CITY OF MILWAUKIE, OREGON, EXTENDING THE SCOPE OF WORK DEADLINE TO DECEMBER 31, 2000.

Traffic Calming on 36th Avenue

Bennett provided the staff report in which staff requested direction on Dorothy Snowhill's request for speed bumps on 36th Avenue. At the last meeting on this issue, Snowhill requested the City Council to waive the Neighborhood Traffic Management Program (NTMP) criteria in order to install traffic calming on 36th Avenue. Milwaukie Providence Hospital has agreed to pay up to \$5,000 for installation of these devices if certain conditions are met. She reviewed how points were assigned to projects based on adopted NTMP criteria. The City Council also directed staff to prepare a policy regarding privately funded traffic calming.

Staff recommends following the NTMP guidelines and taking no further action to install traffic calming on 36th Avenue although the Hospital has offer up to \$5,000 for the project. If the City Council disagrees with the staff recommendation, it may wish to adopt findings that distinguish this street from other residential streets. The findings would be needed so the City does not create a precedent for waiving an adopted program and policy.

Councilor Kappa asked if the Providence Milwaukie conditions have been met.

Bennett responded that staff time will not be expended unless the City Council waives the NTMP criteria for this particular street.

Dorothy Snowhill felt that 36th Avenue was being overlooked and not treated fairly. The street is unique because of the hospital, and the circumstances, she felt, extended beyond the NTMP criteria. If traffic calming was installed, speed and volume would be reduced, and ambulances would not chose to use 36th Avenue. She provided information including a quit claim deed disclaimer having to do with approved uses. The private road, easement, and non-use of that entrance for ambulances are covered under applicable land use, but the hospital was not aware of this.

Councilor Kappa asked the City Attorney what bearing the quit claim deed might have on the proceedings.

Ramis said he would have to review the document.

It was Council consensus to set the decision on 36th Avenue traffic calming over to the January 4, 2000 meeting.

Councilor Lancaster observed that the crux of the issue seemed to be ambulance traffic, and he asked if drivers could be required to use 32nd Avenue.

Rita Kester, Providence Milwaukie Hospital, responded that emergency vehicle drivers and employees have been advised to use 32nd Avenue, but enforcement would be difficult. There are emergency patient transport situations when speed and disposition of the patient would be factors the drivers would have to weigh.

Re-adoption of Local Contracting Rules

Bartlett presented the staff report in which the City Council was requested to adopt an ordinance relating to the City's purchasing rules as required by HB 2024. The Bill requires that all public contracting agencies either adopt the Attorney General's Model Rules or re-adopt their own. Until the Rules are completely analyzed for their applicability to Milwaukie, he recommended re-adopting the City's existing rules. HB 2024 appears to be another erosion of local control and a movement toward statewide rules. The Attorney General has not yet drafted all of the legislative changes, so at this time they are only speculative.

Councilor King recalled the man who addressed the City Council regarding the journeyman clause and asked if that would be included.

Bartlett said the cities would have to see how the Attorney General builds the rules and develop language that conforms to that of the state.

Councilor Kappa concurred with Bartlett's assessment and recommended waiting on any further action until staff went through the new rules.

It was moved by Councilor Kappa and seconded by Councilor Lancaster to read the ordinance re-adopting the City's current purchasing rules for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor Kappa and seconded by Councilor Marshall to read the ordinance re-adopting the City's current purchasing rules for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the ordinance re-adopting the City's current purchasing rules. Motion passed unanimously.

ORDINANCE NO. 1865:

**AN ORDINANCE RELATING TO THE RE-ADOPTION OF THE
CURRENT CITY PURCHASING RULES AS REQUIRED BY
HOUSE BILL 2024.**

Other Items

Councilor Marshall noted that over the past two months he has observed drivers running the stops signs in the transit center area at 21st Avenue and Jackson Street. The signs are not very visible due in part, he believed, by the number of buses, and he was concerned about pedestrian safety.

Councilor Marshall asked the status of right-of-way markings on Johnson Creek Blvd., and **Bartlett** said the issue would be discussed in executive session.

Councilor Kappa agreed with Marshall's comments about the 21st and Jackson intersection. The signs are even more difficult for drivers to see at this time of year.

Bennett responded that staff would look at this intersection issue.

Councilor King noted she had recently received a copy of the 3CMA publication on dealing with the media and found it very helpful.

The group discussed the spring 2000 closure of the Ross Island Bridge for repairs. **Councilor Kappa** suggested looking at what type of impacts bridge closures have on Milwaukie, and **Bartlett** responded that the City does not have staff capacity to do that type of traffic projection.

Councilor Kappa suggested that Milwaukie make a presentation at the 2000 Oregon Livability Conference on riverfront/downtown planning and open spaces.

Councilor King reminded City Council and staff of the discussion about a sign on McLoughlin Blvd. celebrating the waterfront development.

Mayor Tomei announced an executive session pursuant to ORS 192.660 to discuss potential litigation and property acquisition.

ADJOURNMENT

It was moved by Councilor King and seconded by Mayor Tomei to adjourn the meeting. Motion passed unanimously.

Mayor Tomei adjourned the meeting at 7:25 p.m.

Pat DuVal, Recorder